

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**CASE NO.: 1:21-cv-0080-WMR**

BETH GALTON,

Plaintiff,

v.

ROYAL WAFFLE KING  
CORPORATION,

Defendant.

**FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT  
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff BETH GALTON by and through her undersigned counsel, brings this Amended Complaint against Defendant ROYAL WAFFLE KING CORPORATION for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff BETH GALTON (“Galton”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Galton's original copyrighted Work of authorship in her Work.

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2. Galton is a prominent food and still life photographer and director who has worked with many of the country's leading advertising agencies, design firms, and major American brands over the past thirty years. Her meticulous and often witty botanical, food and fine art images elevate food and objects to the level of art, and her images tell stories of shared memories, a love of nature, unique ingredients, and the beauty of objects. Galton's professional and fine artwork have won numerous accolades and have been exhibited extensively throughout her career.

3. Defendant ROYAL WAFFLE KING CORPORATION (“RWKC”) is, according to its website, “a chain of restaurants providing good food, a pleasant atmosphere, cleanliness and Royal Service – at Reasonable Prices.”

4. Galton alleges that RWKC copied Galton's copyrighted Work from the internet in order to advertise, market and promote its business activities. RWKC committed the violations alleged in connection with RWKC’s business for purposes of advertising and promoting sales to the public in the course and scope of the RWKC’s business.

### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Georgia.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

### **DEFENDANT**

9. Royal Waffle King Corporation is a Georgia Corporation, with its principal place of business at 1459 Field Park Circle, Marietta, GA 30066, and can be served by serving its Registered Agent, Mr. Charlie N. Crowder, 1459 Field Park Circle, Marietta, GA 30006

### **THE COPYRIGHTED WORK AT ISSUE**

10. In 2009, Galton created the photograph entitled A\_20-94-95\_851, which is shown below and referred to herein as the “Work”.



11. Galton registered the Work with the Register of Copyrights on February 19, 2014 and was assigned the registration number VA 1-893-845. The Certificate of Registration is attached hereto as Exhibit 1.

12. Galton's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times Galton was the owner of the copyrighted Work at issue in this case.

### **INFRINGEMENT BY DEFENDANT**

14. RWKC has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, RWKC copied the Work.

16. On January 30, 2020, Galton discovered the unauthorized use of her Work on RWKC's Yelp page, on the RWKC menu, as well as the digital menu on the wall at the restaurant.

17. RWKC copied Galton's copyrighted Work without Galton's permission.

18. After RWKC copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its franchise restaurant business.

19. RWKC copied and distributed Galton's copyrighted Work in connection with RWKC's business for purposes of advertising and promoting RWKC's business, and in the course and scope of advertising and selling products and services.

20. Galton's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. RWKC committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

22. Galton never gave RWKC permission or authority to copy, distribute or display the Work at issue in this case.

23. Galton notified RWKC of the allegations set forth herein on July 20, 2020. As of the date of the filing of her original Complaint, RWKC has failed to respond to Plaintiff's Notices. Copies of the Notices to RWKC are attached hereto as Exhibit 3.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

24. Plaintiff incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Galton owns a valid copyright in the Work at issue in this case.

26. Galton registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. RWKC copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Galton's authorization in violation of 17 U.S.C. § 501.

28. RWKC performed the acts alleged in the course and scope of its business activities.

29. RWKC's acts were willful.

30. Galton has been damaged.

31. The harm caused to Galton has been irreparable.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Royal Waffle King Corporation that:

- a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Defendant be required to pay Plaintiff her actual damages and RWKC's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Plaintiff be awarded her attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Plaintiff be awarded pre and post-judgment interest; and
- e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted, this 10th day of May, 2021.

s/ Evan A. Andersen

Evan A. Andersen

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*Counsel for Plaintiff Galton*

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1.B**

Counsel for Plaintiff Galton hereby certifies that this pleading was prepared in Times New Roman font, 14 point, in compliance with Local Rule 5.1.C.

This 10th day of May, 2021.

Respectfully submitted,

s/ Evan A. Andersen

Evan A. Andersen

EVAN ANDERSEN LAW, LLC